

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Deborah A. Forde,

Debtor.

HEARING DATE: **August 15, 2019**
HEARING TIME: **10:00 AM**
LOCATION: **Brooklyn**

Case No.: 1-19-43275-cec

Chapter 13

Judge: Hon. Carla E. Craig, U.S.B.J.

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**OBJECTION TO CONFIRMATION OF
DEBTOR'S CHAPTER 13 PLAN**

MTGLQ INVESTORS, L.P.. (the "Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Debtor's Chapter 13 Plan, and states as follows:

1. Deborah A. Forde (the "Debtor"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on May 29, 2019.
2. Secured Creditor holds a security interest in the Debtor's real property located at 1035 E 81ST ST, BROOKLYN, NY 11236-4221, by virtue of a Mortgage recorded on July 31, 2007 as CRFN: 2007000391576 of the Public Records of Kings County. Said Mortgage secures a Note in the amount of \$270,000.00.
3. The Debtor filed a Chapter 13 Plan (the "Plan") on May 29, 2019 (Doc No. 2).
4. It is anticipated that Secured Creditor's claim will show the pre-petition arrears due Secured Creditor is in excess of \$91,561.05 (Proof of Claim due by August 7, 2019). Debtor's proposed Plan fails to provide payment of said pre-petition arrears. Therefore, the Plan is not in compliance with the requirements of 11 U.S.C. §§ 1322(b)(3) and 1325(a)(5) and cannot be confirmed. Secured Creditor objects to any proposed Plan that fails to provide for the total amount of pre-petition arrears due and owing to Secured Creditor.

5. Furthermore, Debtor's Plan evidences an intent to seek a mortgage modification through this Court's Loss Mitigation Program. However, in the event Loss Mitigation is unsuccessful, Secured Creditor would be entitled to payment of all the pre-petition arrears.
6. In the absence of a loan modification Debtor is obligated to fund a Plan which is feasible to cure the arrears and total debt due to the objecting creditor within a reasonable time pursuant to 11 U.S.C § 1322(b)(5). Therefore, in the event that loss mitigation efforts are not successful, the Plan fails to satisfy the confirmation requirements of 11 U.S.C § 1325(a)(1).
7. Based on the foregoing, Secured Creditor objects to confirmation because the Plan is insufficient to cure the pre-petition arrears owed to Secured Creditor.
8. Pursuant to of 11 U.S.C. § 1322(b)(3) and (5) the Chapter 13 Plan must cure a default owed to a creditor that holds a secured claim within a reasonable time. Debtor's Plan does not cure the default under the Note and Mortgage held by Secured Creditor. Therefore, since the proposed Plan does not cure the default under the Note and Mortgage, Secured Creditor objects to confirmation of the Plan.

WHEREFORE, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtor's Plan, and for such other and further relief as the Court may deem just and proper.

Dated: July 2, 2019

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 2, 2019, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, and a true and correct copy has been served via CM/ECF or United States Mail to the following parties:

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